



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 3367-99
29 October 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 October 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 19 March 1963 at the age of 17. Your record shows that you served for a year and four months without incident but on 31 July 1964 you received nonjudicial punishment (NJP) for destruction of government property. The punishment imposed was reduction to paygrade E-1, forfeitures totalling \$60, and restriction for 26 days. On 3 September 1964 you received NJP for absence from your appointed place of duty. The punishment imposed was forfeitures totalling \$19 and restriction and extra duty for 14 days. Shortly thereafter, on 3 September 1964, you received your third NJP for public drunkenness and wrongful possession of three liberty cards. The punishment imposed was forfeitures totalling \$80 and extra duty for 30 days.

Your record also shows that on 11 February 1965 you were convicted by summary court-martial (SCM) of a day of unauthorized absence (UA). You were sentenced to confinement at hard labor for a month, which was suspended or six months, and forfeitures totalling \$40.

On 28 July 1965, after undergoing a psychiatric evaluation, you were diagnosed with a passive aggressive personality which was manifested by manipulation of impulsive and homosexual tendencies. On 23 September 1965 you submitted a written statement admitting to sexual perversion. The statement noted, in part, that you had permitted another male to perform acts of oral copulation and that you had fondled the penis of another Marine while he was sleeping. Subsequently, you submitted a written request for an other than honorable discharge in order to avoid trial by court-martial for participating in homosexual acts. Your record also shows that prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. Subsequently, your commanding officer recommended that you be issued an other than honorable discharge by reason of unfitness due to homosexual involvement. The Board found your request was granted and as a result of this action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. On 8 November 1965 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, diagnosed passive aggressive personality and your contention that the foregoing and severe alcoholism impaired your ability to satisfactorily serve. The Board also considered your contention that you would like your discharge upgraded, under current standards, to honorable. Further, the Board considered your contention that the charges of sexual perversion and homosexual activity were incorrect. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the frequency and serious nature of your misconduct. The Board noted that you admitted to participating in an homosexual act with another Marine without his consent. Even under current standards, this type of behavior is sufficient to warrant an other than honorable discharge. The Board also concluded that you received the benefit of your bargain with the Marine Corps when you were discharged at your request rather than being tried by court-martial, which could have resulted in a lengthy period of confinement as well as a punitive discharge. The Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material

evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director